Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
	)	
Forward Looking Mechanism for High Cost Support for Non-Rural LECs	)	CC Docket No. 97-160
	)	
	)	

PETITION FOR RECONSIDERATION

Roseville Telephone Company ("Roseville") hereby petitions the Commission for reconsideration of that portion of the Tenth Report & Order in the above-captioned proceeding[1] that defined "rural telephone company" for the purposes of providing different high-cost support mechanisms for rural and non-rural local exchange carriers("LECs)". The definition used by the Commission (Section 3(37) of the Communications Act[2] *i.e.*, companies serving more than 100,000 access lines) improperly places smaller mid-sized carriers in the same category as LECs hundreds of times their size, thus basing high-cost support for such companies on models designed for carriers with substantially greater economies of scale and scope. In addition, the vastly different way that the current Universal Service Fund supports LECs with less than 200,000 access lines in a study area and the phased elimination of hold-harmless support (as proposed in the Ninth Report and Order in this proceeding) will cause

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[1] FCC 99-304, released November 2, 1999 (hereinafter *"Tenth R & O"*)

[2] 47 U.S.C. Section 153(37).

significantly greater rate shock to customers of LECs with less than 200,000 access lines in a study area. In light of the harm likely to be caused as a result, and because the definition used by the Commission is not mandated by the Act for use in connection with federal universal service, Roseville urges the Commission to revise that definition in a manner that treats the smaller mid-sized carriers in a manner more similar to the rural LECs. Such a revision should either rely on the definition of "rural carrier" in Section 251(f)(2) of the Communications Act, or should distinguish non-rural LECs as those with more than 200,000 access lines in a study area.

I. Introduction

Roseville is an incumbent local exchange carrier ("ILEC") serving subscribers in 83 square miles, with central office locations serving the Roseville and Citrus Heights, California area. Roseville has been providing high quality communications services to its subscribers for over 85 years, and currently serves approximately 128,000 access lines. While Roseville's access line count places it a mere 28,000 access lines above the definition of "rural telephone company", it is among the smallest of the non-rural LECs ("NRLECs"). To the extent that larger companies can use their size to create greater cost savings, Roseville is in fact closer to rural companies than to the giant NRLECs with which Roseville is being categorized, for the purpose of federal high cost support.

As the carrier of last resort for local subscribers, Roseville takes very seriously its obligation to provide high quality local exchange services at a reasonable cost to the end-user. In previous Commission proceedings on universal service, including August

6, 1999 Reply Comments in response to the Notice of Proposed Rulemaking that lead to the *Tenth R & O* ("*Inputs Further Notice*"), Roseville has expressed its deep concern that the use of proxy cost models to establish federal high-cost support allocations could lead to substantial errors when applied to the differing circumstances of each individual carrier, and that such errors could significantly effect the rates that subscribers pay for service. Unfortunately, upon review of the latest version of the Commission's "Synthesis Model" for estimating the forward-looking costs of providing the supported services, Roseville's concern's have been realized: Roseville's federal high- cost support would be reduced to $0 from its current level of approximately $6 million per year. This complete loss of federal support will without doubt create significant pressure to raise rates. Taking into account the current federal interstate support, Roseville's residential customers pay $20.13 per month (including State-mandated surcharges) through rates established by the California PUC. Based upon the results from the Synthesis Model, which reduces the federal high-cost suport to $0, residential rates for Roseville subscribers would increase to over $24 per line.[3]

As was demonstrated in Roseville's Reply Comments, the figure produced by the model is a result of flawed assumptions in the model that do not reflect the reality of the situation in Roseville's service area. But Roseville's focus in this Petition will not be on the specific flaws in the Synthesis Model. Rather, Roseville will focus on the broader problem of applying the Model and new support mechanisms to carriers for which it is

[3] In addition to these rates, residential customers also pay the end-user common line charge of $3.50 per month, which is currently under review and subject to upward pressure.

not appropriate: smaller mid-sized carriers.

II. **The Regulatory Distinction for Applying the High-Cost Support Mechanism to Individual Companies Should be Revised to Correct the Huge Differences in Size Among "Non-Rural" Companies.**

In the original *Universal Service Report & Order*, the Commission concluded that a flash-cut shift to high-cost support based on a forward-looking methodology was inappropriate for "rural carriers", since such carriers "generally serve fewer subscribers, serve more sparsely populated areas, and do not generally benefit as much from economies of scope and scale." 12 FCC Rcd 8776, 8936 (1997). In the *Inputs Further Notice*, the Commission sought comments on the use of the definition in Section 3(37) of the Act to distinguish between "rural" and "non-rural" companies for the purpose of high-cost support. However, determining the distinction between "rural" and "non-rural" companies before releasing the Synthesis Model (and before companies have had an opportunity to review in detail the impact of that Model on company operation and funding), commits the mistake metaphorically described as "putting the cart before the horse". Had the Commission finalized the Model first, it would have seen that smaller mid-sized carriers such as Roseville have cost structures that clearly do not fit into the parameters of that Model. At that point, the Commission could have revised the definition of "non-rural" companies to appropriately exclude the smaller mid-sized companies. By this Petition, Roseville is asking the Commission to do so now.

Accordingly, in Reply Comments responding to the *Inputs Further Notice*, Roseville expressed its deep concern about applying the same mechanism to all NRLECs if such companies are to be defined as any company with more than 100,000 access lines. Such a regulatory distinction ignores the tremendous diversity in size, and thus economies of scope and scale, among such companies. For example, As reported in USTA's 1999 *Phone Facts*, SBC Communications has over 282 times as many access lines as Roseville (36,165,695 vs. 128,000). Once SBC's merger with Ameritech is complete, the combined company will have over 446 times as many access lines as Roseville.[4]

Roseville went on to note that a proxy model, by its very nature, is an inexact estimate of cost. Some wire center's cost may be overestimated and others may be underestimated. For large NRLECs with hundreds of wire centers, these errors will tend to cancel out, assuming all other aspects of the model and its input are accurate. Roseville, however, has only two wire centers. Accordingly, when the model is applied to a carrier like Roseville and contains an error regarding a wire center, the impact on the carrier is greatly magnified because that wire center constitutes a much greater proportion of Roseville's operations. Accordingly, Roseville suggested that if the Commission utilizes its proxy model for NRLEC high-cost funding, that this be done only for the largest of the NRLECs, and that the goals of the Telecommunications Act of 1996 would be best achieved by treating the smaller NRLECs in a manner more similar to the rural LECs.

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[4] Based on the figures in USTA's Phone Facts 1999, SBC serves 23.48 percent of the Nation's access lines. Once its merger with Ameritech is completed, the consolidated company will serve 34.26 percent of the Nation's access lines. In contrast, Roseville serves only 0.077 percent (seventy seven thousandths of a percent) of the Nation's access lines.

What Roseville and other parties did not (and could not) know at the time comments in response to the *Inputs Further Notice* were filed, was the manner in which the FCC would decide the mechanism by which non-rural carriers would transition from the old to the new mechanism. In the Ninth Report and Order the Commission decided to hold carriers harmless for the amount of universal service support received under current support mechanisms.[5] The Commission indicated that this hold-harmless support would only be transitional. *Id.* Subsequently, the Federal-State Joint Board on Universal Service issued a request for comments on if and/or how the hold-harmless provisions should be phased out. In responsive comments, many parties suggested that the hold-harmless provisions for non-rural carriers be phased out over periods of from one to three years.

Under FCC Rules governing the current Universal Service Fund ("USF"), there are tow schedules for the computation of explicit support for high-cost study areas. For study areas serving over 200,000 customer lines, support is provided for only 10 percent of any costs over 115 percent of the nationwide average cost. For study areas with less than 200,000 lines, however, support is provided for 65 percent of costs over 115 percent of the nationwide average. What this means is that customers of a company serving less than 200,000 lines, under any phase-out scenario for hold-harmless support, will experience an impact and rate shock six and one half times greater than would customers of a similarly situated company serving over 200,000 lines. Since, by definition, "rural" carriers serve less than 200,000 lines, the customer

[5] FCC 99-306 (released November 2, 1999) at para. 78.

impact for both "rural" carriers and "non-rural" carriers serving less than 200,000 lines would be identical, and significantly more severe than for "non-rural" carriers serving over 200,000 lines.

The following chart illustrates this phenomenon. The chart shows three hypothetical companies with identical per-line costs. The only difference between the companies is the number of lines that they serve. Yet notice the different impact of phase-out of support on these companies.

	Company A	**Company B**	**Company C**
Lines	4,500,000	120,000	4,500
Class	"Non-Rural"	"Non-Rural"	"Rural"
Cost/Line*	$35.00	$35.00	$35.00
Nat'l Average*	$25.00	$25.00	$25.00
Difference	$10.00	$10.00	$10.00
USF	$ 1.00	$ 6.50	$ 6.50
Per-Line Per-Year Monthly Impact of 3-Year Phase-Out (Divide USF Line by 3)	**$ 0.33**	**$ 2.16**	**$ 2.16**

*Hypothetical values for illustration purposes. All figures are $/line/month.

Notice that the customer impact for Companies B and C is identical, even though Company B is "non-rural" and Company C is "rural". Also notice the marked difference between the customer impact for Company A versus the impact for customers of Companies B and C.

Unfortunately, the Commission chose to leave in place its prior decision to use of the Section 3(37) definition as the basis for the distinction between NRLECs and

RLECs. *Tenth R & O* at para. 459. Apparently ignoring Roseville's suggestion, the Commission stated that commenters preferred to retain the existing definition "on the grounds that changing the definition at this time could disrupt the settled expectations that they have developed." *Tenth R & O* at para. 459. While Roseville agrees that expectations regarding funding should not be unnecessarily altered, in this case, this single statement does not provide sufficient justification for failing to correct a regulatory distinction that lacks a rational basis.

First, the Commission's non-action on this issue completely ignores the huge differences in economies of scale and scope among carriers in the NRLEC category (*i.e.*, that SBC/Ameritech will be 446 times as large as Roseville). Yet, it was because of the impact of these differences that the Joint Board recommended, and the Commission agreed, to make the RLEC/NRLEC distinction for high-cost support in the first place. *See*, *Universal Service Report & Order*, 12 FCC Rcd at 8936. While it was correct to try to make a regulatory distinction, the 100,000 line distinction resulting from the use of Section 3(37) is clearly the wrong place to draw the line. Carriers just over that line, such as Roseville and North State Telephone Company, are clearly much closer to rural companies in economies of scale and scope, and in the customer impact of hold-harmless phase-out, than to giant NRLEC BOCs that are hundreds of time larger.[6]

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[6] It should be noted that there are also a number of LECs serving study areas that could easily grow over 100,000 access lines in the next few years. Such companies include ALLTEL, Century Telephone Enterprises, TDS Telecommunications, Horry Telephone Cooperative in South Carolina, Connestoga Telephone Company in Pennsylvania, and the Guam Telephone Authority.

Second, while Roseville sees the logic in looking to the Communications Act for a basis as to where to draw the RLEC/NRLEC distinction, the Commission itself acknowledged that there is no statutory mandate to use the definition in Section 3(37) for the purposes of universal service. *See, Tenth R & O* at para. 459 ("Although the Commission used the rural telephone company definition to distinguish between rural and non-rural carriers for purposes of calculating universal service support, there is no statutory requirement to do so."). Given that there is no statutory requirement to use Section 3(37) for the distinction, Roseville suggests that the Commission reconsider the matter and use a distinction that better accounts for the potential for customer rate shock, as well as the impact of economies of scale and scope. If the Commission believes that a distinction should be based on the Communications Act, then Roseville recommends that the Commission use the distinction made in Section 251(f)(2) for "rural carriers", which are defined as those LEC holding companies serving fewer than two percent of the nation's subscriber lines. Use of the statutory definition of "rural carrier" has the benefit of reflecting an important distinction made by Congress regarding classification of large and small companies. This definition also reflects the huge difference in size between the BOCs and GTE on one hand, and the smaller LECs on the other.[7]

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[7] Of the five BOCs plus GTE, the smallest company is US WEST, which has over 16 million access lines, according to the *1999 Phone Facts*. The next smaller company is ALLTEL, which has 1.9 million lines, and thus would fall under into the two percent category.

If the Commission chooses not to use the two percent definition of "rural carrier" in Section 251 of the Act, then Roseville recommends another alternative that realistically reflects the similarity in customer impact and economies of scope and scale between smaller mid-sized carriers and small rural carriers. Specifically, the Commission should make the distinction between "NRLECs" and "RLECs" be based on service to more or less than 200,000 access lines in a study area, respectively. Use of a distinction that does not directly track a definition of "rural" in the Act reflects the fact that for the purposes of applying different high-cost support mechanisms, the terms "non-rural" and "rural" have little to do with the territory which a LEC serves, and everything to do with its size of the company. While most RLECs are small and most NRLECs are large, the current mechanism used by the Commission to distinguish "RLECs" from "NRLECs" makes no reference to the actual areas served by the carriers, but rather only to the number of lines served by the carrier. Given that the real distinction is between large and small companies, 200,000 access lines is a more appropriate dividing point between large and small LECs for determination of high-cost funding, and transition from the current mechanisms.

As described above, use of 200,000 access lines for the RLEC/NRLEC distinction is also consistent with the way that the current USF treats support for companies with less than 200,000 lines in a study area. Under the USF rules[8], such study areas receive support for only 10% of their cost in excess of 115% of the nationwide average. Study areas with less than 200,000 lines, such as RTC's study

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[8] Section 36.631.

area, receive 65% of their cost in excess of 115% from the USF. This is no windfall, however, as state regulators have taken this support into account in the establishment of intrastate rates. What this suggests is that study areas under 200,000 lines typically have very different cost structures and economies of scope and scale than study areas with more than 200,000 lines.

Roseville recognizes that the reason that the Commission did not change the RLEC/NRLEC distinction is that some companies expressed concern about reliance on the current distinction. Yet, the revisions proposed herein should not trigger this concern. First, the revision will only impact a limited number of mid-sized companies: the BOCs and GTE will remain NRLECs, and companies under 100,000 access lines will remain RLECs. If the Commission adopts the two percent distinction, then at most, 13 companies will shift into the RLEC status for the purposes of high-cost support. If the Commission adopts the 200,000 access line approach, then at most five companies shift into the RLEC category. Second, if the RLEC/NRLEC distinction is revised as proposed herein, the affected companies will <u>continue</u> to receive high-cost support in the manner which they <u>currently</u> receive it, until the Commission revises the mechanisms for rural companies. This could hardly be considered a disruption. Furthermore, the Commission's "hold-harmless" provisions will keep the amount of federal high-cost support consistent for a certain period of time, perhaps through the year 2002.

In any case, while the number of companies affected is limited, for those companies and their subscribers, the impact of revising the RLEC/NRLEC distinction will be substantial and important. As was noted above, it is clear to Roseville (and numerous other parties) that the Commission's Synthesis Model is significantly flawed, and does not reflect the real costs faced by companies such as Roseville. The Commission should not ignore the fact that high costs that were identified and funded under the previous rules do not merely go away when they no longer fit in the new model-based mechanism. If Federal support for those costs is eliminated, they will still have to be recovered, either from state funds or from local rate payers.

One apparent reason for the disconnect between the model and reality is that the model is obviously designed to apply to companies much larger than Roseville, with much greater economies of scope and scale. Roseville hopes and suspects that the mechanism designed for rural companies will be more accurate, and thus more appropriate for application to companies like Roseville. The result will be that actual costs will be recovered through appropriate high-cost support, rather than through local rates, thus limiting rate shock.

The Joint Board has created the Rural Task Force ("RTF") to carefully think through the many issues related to applying the high-cost support model developed for the large non-rural LECs to the smaller rural LECs. The recommendation of the RTF is to be submitted nine months following the release of the Commissions decision on the non-rural support mechanism, or September 2, 2000. RTC believes that the public interest, and the interest of customers served by the smallest "non-rural" LECs, will be best served by waiting for the report of the RTF, and applying the rules and policies that result from that recommendation to the universe of small companies and smaller mid-sized companies, as proposed in this Petition.

III. Conclusion

The distinction between RLECs and NRLECs set forth in the *Tenth R & O* improperly places smaller mid-sized carriers in the same category as LECs hundreds of times their size, thus basing high-cost support for such companies on models designed for carriers with substantially greater economies of scale and scope. In light of the harm likely to be caused as a result, and because the definition used by the Commission is not mandated by the Act for use in connection with federal universal service, Roseville urges the Commission to revise that distinction in a manner that treats the smaller mid-sized carriers in a manner more similar to the rural LECs. Such a revision should either rely on the "two percent" definition of "rural carrier" in Section 251(f)(2) of the Communications Act, or should distinguish non-rural LECs as those with more than 200,000 access lines in a study area, as provided in the current rules for USF.

Respectfully submitted,

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December 30, 1999

In the Matter of Federal-State Joint Board on Universal Service	))))	 CC Docket No. 96-45
Forward Looking Mechanism for High Cost Support for Non-Rural LECs	)))	CC Docket No. 97-160

REPLY TO OPPOSITION TO AND COMMENTS ON PETITION FOR RECONSIDERATION <u>OF ROSEVILLE TELEPHONE COMPANY</u>

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February 22, 2000

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Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
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Forward Looking Mechanism for High Cost Support for Non-Rural LECs	)	CC Docket No. 97-160

REPLY TO OPPOSITION TO AND COMMENTS ON PETITION FOR RECONSIDERATION OF ROSEVILLE TELEPHONE COMPANY

Roseville Telephone Company ("Roseville") hereby replies to the Comments on and Opposition to the Petition filed by Roseville on December 30, 1999 ("PFR") seeking reconsideration of a portion of the Tenth Report & Order[1] in the above-captioned proceeding.[2]

I. Introduction

It is important at the outset to clarify what Roseville is requesting in its PFR, and what it is not, because a misunderstanding of Roseville's request lies at the heart of challenges to its proposal. In its PFR, Roseville requested that the Commission change the dividing-point between "large" and "small" telephone companies solely for

[1] FCC 99-304, released November 2, 1999 (hereinafter *"Tenth R & O"*).

[2] The pleadings responded to herein are Comments filed by MCI Worldcom, Inc. ("MCI"), and an Opposition filed by the People of the State of California and the California Public Utilities Commission ("CPUC"). It should be noted that Roseville also filed a PFR regarding the portions of the Commission's Ninth Report and Order in CC Docket 96-45 which incorrectly included *interstate* Long Term Support in the hold-harmless provisions of its new explicit support mechanism for *intrastate* costs. Significantly, no parties filed oppositions to that PFR.

the purposes of the new explicit high-cost mechanisms mandated by the 1996 Act. The *Tenth R & O* utilized the "rural/non-rural" distinction as defined in Section 3(37) of the Communications Act.[3] Roseville proposed that the dividing-line be changed to use the over/under 200,000 line distinction used in the current Universal Service Fund (USF) calculus. <u>Roseville is not requesting to be considered a "rural" telephone company for purposes of Sections 251 or 252 of the Communications Act</u>.[4] What Roseville is requesting is that it (and four other similarly situated LECs) be treated, for federal high cost support purposes, under the provisions to be recommended by the Rural Task Force. Such an approach would treat Roseville in a manner consistent with companies more similar in size and cost structure to Roseville, than to non-rural BOCs hundreds of times its size. The result would be to protect Roseville's subscribers from substantial rate increases.

A critical problem that the Commission must manage is the transition from the current USF to the new explicit support mechanism. The USF essentially defines two types of study areas – "65%" study areas and "10%" study areas. A study area with less than 200,000 lines (such as that of Roseville) receives 65% of its high costs[5] from the USF, while a study area with over 200,000 lines receives only 10% of its high costs

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[3] In hindsight, the use of the terms "rural" and "non-rural", particularly in the context of universal service reform, is unfortunate. Such terms may create incorrect implications regarding the size and cost structure of a company based on the location of the company's service area. In addition, "non-rural" companies often serve rural areas, while some "rural" companies serve in urban areas.

[4] The Section 3(37) definition of rural telephone company is used primarily to determine a company's interconnection obligations and other relationships with competitive carriers. As will be discussed more fully below, Roseville is currently interconnected with eight competitive carriers serving customers in its territory.

[5] High costs are those loop costs which exceed 115% of the nationwide average loop costs. See 47 CFR Section 54 for a complete description of the USF rules.

from the fund. Virtually all RBOC and GTE study areas are of the 10% variety. To the extent that any of these areas are to receive "hold-harmless" support, the phase-out of this support will have less impact on end-users. In contrast, virtually all Section 3(37) "rural" study areas are 65% study areas. Since these receive proportionately six and one-half times more of their high costs from the USF than would a comparable 10% study area, the transition to the new explicit high-cost support mechanism will have significantly more impact on these companies and their customers. It was largely for this reason that the Universal Service Joint Board created the Rural Task Force ("RTF") to examine the applicability of the Synthesis Model and the non-rural support mechanism and transition plans to the smaller LECs.

In the PFR, Roseville discussed the different transitional problems faced by the "65%" (i.e., under 200,000 line) study areas, using the following chart:

	Study Area A	**Study Area B**	**Study Area C**
Lines	4,500,000	120,000	4,500
Section 3(37) Class	Non-Rural	Non-Rural	Rural
Cost/Line*	$35.00	$35.00	$35.00
Nat'l Average*	$25.00	$25.00	$25.00
Difference	$10.00	$10.00	$10.00
USF	$1.00	$6.50	$6.50
Per-Line Impact of 3-Year Phase-Out	$0.33	$2.16	$2.16

*Hypothetical values for illustration purposes. All figures are $/line/month.

This chart shows three hypothetical study areas with identical per-line costs, but with different numbers of lines. Notice that while Study Area B at 120,000 lines is classified as a Section 3(37) "non-rural" study area, since it serves less than 200,000 lines it receives the same proportional USF support as Study Area C, the Section 3(37) "rural" study area. More importantly, the customer impact of a three year phase-out of hold-harmless support is the same as for the "rural" study area, and six and one-half times that of the large "non-rural" area.

Roseville is not the only Section 3(37) non-rural study area that receives hold-harmless support yet serves less than 200,000 lines. The following chart shows the four other study areas that fall into this category, and the amount of USF that they currently receive.

**Non-Rural Study Areas Under
200,000 Lines Receiving HH Support**

		Hold Harmless Support	
	USF Loops	Annual	$/Line/Mo
Contel Of North Carolina dba GTE NC	128,838	$2,324,124	$3.01
GTE North Inc - Missouri	118,118	$428,604	$0.60
North State Telephone Company-NC	126,149	$2,414,388	$1.59
P R T C - Central	157,150	$35,831,868	$31.06
Roseville Telephone Company	117,860	$6,372,420	$5.70

Source: NECA 1Q2000 High-Cost Funding Report App 1 (annualized)

In sum, the transition to the new federal high cost support system is a complex task that can impose unnecessary harm on certain companies and their subscribers. One means for limiting such unnecessary harm is to make an appropriate distinction between the large companies that will be moving to the Synthesis Model, and the other companies, for whom federal support is to be determined through the RTF.

II. The Concerns of the CPUC are Not Relevant and are Misplaced.

The California Public Utilities Commission (CPUC) bases its opposition to Roseville's universal service proposal on the concern that if it is granted "rural" status, Roseville will somehow use this to seek "rural" status for the purposes of Section 251, and thus avoid its interconnection responsibilities with competing carriers. Opposition at note 3. The CPUC's concerns are greatly misplaced. First, in the PFR, Roseville is not seeking "rural" status pursuant to Section 251(f) of the Act. Rather, it is merely seeking to change the demarcation point between "large" and "small" LECs for the purposes of federal high-cost support. Second, Roseville is actively meeting its interconnection obligations, and currently interconnects with eight CLECs who are serving customers in Roseville's territory.[6] Roseville's PFR was not filed in order to shelter itself from competition. Third, the CPUC's expressed concern is inconsistent with the plain language of 251(f). Section 251(f)(1) deals with rural companies as defined by Section 3(37), and provides an exemption from certain interconnection obligations until the carrier (1) receives a bona fide request, and (2) the state PUC determines that such request is not unduly burdensome. Since Roseville does not meet the Section 3(37) definition of "rural", and Roseville is not requesting a change of its status, the CPUC's concerns regarding Section 251(f)(1) are misplaced. Section 251(f)(2) applies to "rural" carriers with "fewer than 2 percent of the Nation's subscriber

[6] The CLECs with which Roseville currently interconnects are AT&T, ICG, MCI, PacWest, Option One, Pacific Bell, Nextlink, and ELI.

lines". Because Roseville serves less than two percent of the Nation's access lines, it could petition for a modification or suspension of its interconnection obligations under Section 251(f)(2), if it wanted to, regardless of how the Commission rules on the instant PFR. In such a case, however, the CPUC is empowered to review the facts set forth in the petition, and make its own evaluation as to whether to grant the Section 251(f)(2) petition. Thus, the grant of the PFR will not alter Roseville's interconnection obligations, or force the CPUC to alter those obligations.

The CPUC also states that "Roseville's plea that it be treated like a rural carrier is incompatible with its request, granted by the CPUC, to be treated as a competitive carrier for state ratemaking purposes under the CPUC's New Regulatory Framework (NRF)". Opposition at page 4. This argument is not relevant to the issues in the PFR. Currently four California LECs operate under the NRF: Pacific Bell, GTE, Roseville and Citizens Utilities. Citizens Utilities, however, is classified under the Section 3(37) guidelines as a "rural" carrier. Thus even if Roseville were requesting "rural" designation, this would have no impact on its NRF status under California regulation. Similarly, a carrier's status under NRF should have no impact on federal policies for high-cost support. There is no necessary connection between the two.

On pages 3 and 4 of its Opposition, the CPUC argues that Congress did not intend that different regulatory distinctions be used for interconnection and universal service purposes:

> "...both the interconnection and universal service provisions of the Act refer to a rural telephone company, which evidences Congress' intent to treat such a company the same for both interconnection and universal service purposes."

Yet, while Section 214(e) does use the term "rural telephone company" in two sub-sections,[7] none of these sub-sections require the Commission to use the Section 3(37) rural/non-rural distinction for the purposes of determining which carriers are subject to the new Synthesis model high-cost support mechanism. Similarly, while Section 254 of the Act uses the word "rural" in four places,[8] the words "rural telephone company" appear nowhere in Section 254, and thus that Section does not mandate use of the Section 3(37) rural/non-rural distinction for the purposes of determining which carriers are subject to the new Synthesis model high-cost support mechanism. Indeed, nothing in the California Opposition contradicts the Commission's finding in the *Tenth R&O* on this issue: "Although the Commission used the rural telephone company definition to distinguish between rural and non-rural carriers for purposes of calculating universal service support, there is no statutory requirement that it do so." Thus, lacking any statutory barrier to doing so, the Commission should grant Roseville's request to re-

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[7] 214(e)(2) provides that a state "may" designate more than one "Eligible Telecommunications Carriers" in rural telephone company area, and "shall" do so in all other areas. 214(e)(5) defines the "service area" for universal service support obligations for a rural telephone company to be its study area.

[8] The contexts where the word "rural" appears in Section 254 are as follows:

- 254(b)(3) ACCESS IN RURAL AND HIGH COST AREAS – Consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services...that are reasonably comparable to those provided in urban areas...at rates that are reasonably comparable.
- 254(g) INTEREXCHANGE AND INTERSTATE SERVICES – The rates for interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than rates in urban areas.
- 254(h)(1)(A) HEALTH CARE PROVIDERS FOR RURAL AREAS – Services to rural health care providers should receive support so that costs of are comparable to similar services in urban areas.
- Section 254(h)(5)(b)(vi) further defines a "health care provider" to include "rural health clinics".

define the break-point for implementation of the new explicit high-cost mechanism, in order to assure a smoother transition process and minimize the impact on customers.

Finally, Roseville is puzzled by the CPUC's discussion of rate shock in page 6 of its Opposition. No one likes to see customers' rates go up, particularly as competition expands in the local telephone market. From time-to-time, in order to meet obligations to invest to serve customers, and to have earnings adequate to meet the needs of shareholders, regulated telephone companies such as Roseville must file for rate increases with their state regulator. This Roseville did in 1995. The CPUC awarded a rate increase less than that which had been proposed by Roseville,[9] and in doing so explicitly balanced Roseville's financial needs against the potential for harmful rate shock that the CPUC thought could arise from granting the entire proposed rate increase. Yet, when Roseville follows the CPUC's lead and expresses concern about the rate shock that would result from the loss of federal high-cost support, the CPUC appears to trivialize that concern.

III. MCI Worldcom's Objections are Misplaced.

On page 2 of its Comments, MCI Worldcom states:

> "Roseville has presented no evidence that the cost model is incorrect in this case. The only justification it attempts to give for treatment as a rural carrier is that it is smaller than most of the other non-rural carriers and thus cannot achieve the economies of scale that those carriers can achieve."

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[9] It is worth noting that one of the ways in which the CPUC was able to minimize the impact on consumers was to use the explicit federal support to offset costs which ratepayers would otherwise have to pay. If this support is abruptly eliminated (as the CPUC's comments in this proceeding as well as the earlier request of the Joint Board for suggestions on the phase-out of hold harmless support would appear to suggest) then, by the CPUC's own rules and earlier logic, Roseville's customers could potentially face a rate increase of $5.70 per line per month. Even if the phase-out of Hold Harmless support is spread over three years, the impact could be a rate increase of almost $2 per line per month, in each of the next three years.

However, Roseville's PFR is not based on arguments on the accuracy or inaccuracy of the Synthesis Model.[10] As discussed in the Introduction, Roseville's main concern is with the impact that the phase-out of hold-harmless support will have on Roseville and its customers. Since Roseville serves less than 200,000 lines, it receives 65% of its loop costs over 115% of the nationwide average. As demonstrated above, this makes Roseville similar to the rural LECs, and quite different from most non-rural LECs which receive only 10% of costs over 115%.

MCI Worldcom also cites average density data in an attempt to show that Roseville is more comparable to non-rural LECs than to rural LECs:

> "According to Roseville's own data, its average line density is approximately 1,500 lines per square mile. This places it well above the average for rural carriers, at 13 persons per square mile, as well as the average density of non-rural carriers, at 150 persons per square mile."

However, averages are often misleading, particularly when examining the costs of providing telephone service in a complex competitive environment. Costs tend to be relatively low in areas in close proximity to the central office, and quite high in areas many miles distant. Density also plays a role, since economies in distribution plant occur when customers are clustered together. It is this combination of distance and density that ultimately determines cost.

Most people live clustered in towns or cities. There are also some customers who live in the remote areas between towns, and (except in the most dense population corridors) there is lots of land where no one lives. As a result, a very <u>large</u> serving area with most customers clustered in one town in its center could still have relatively

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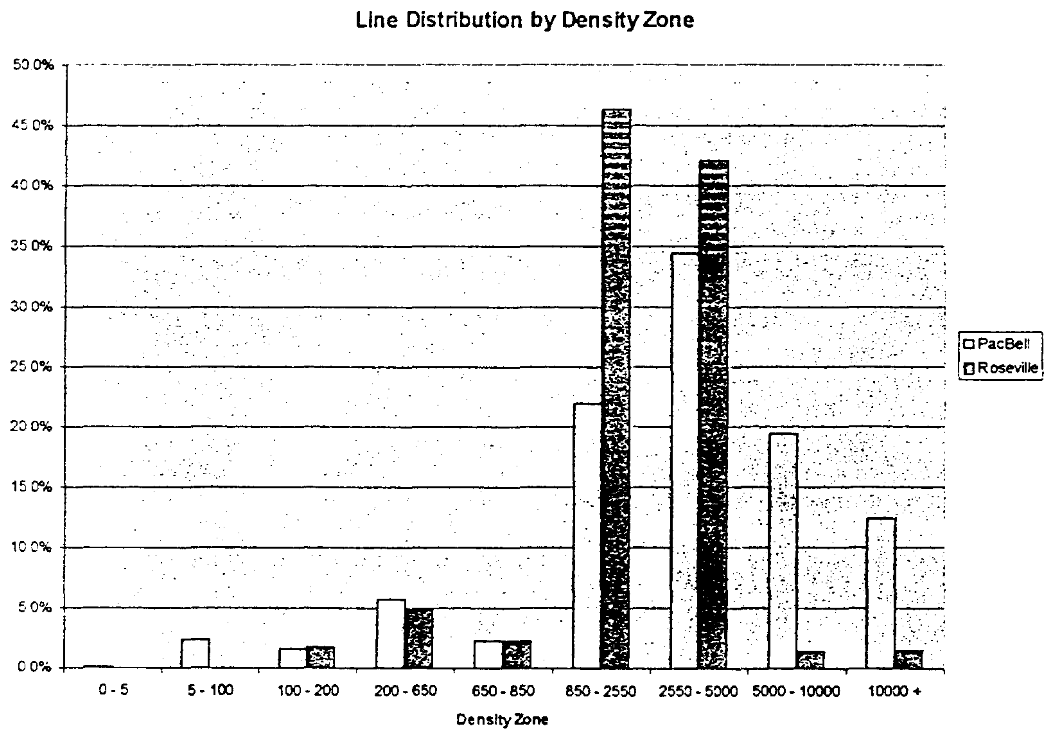
[10] Of course, if Roseville's PFR is not granted, it may subsequently seek relief based on a showing that the non-rural Synthesis Model does not accurately model Roseville's costs.

<u>low</u> average cost per line, even though the lines per square mile would be very low. Conversely, a serving area where the average density is relatively <u>high</u> could also experience <u>higher</u> costs if the customers are uniformly disbursed throughout the serving area. Thus to examine relative cost, you must also examine the relative density groupings. The following chart was developed from the density-zone output run used by the FCC in their June, 1999 Order:



This chart contrasts Roseville's density distribution to its non-rural neighbor, Pacific Bell. While over one-third of Pacific Bell's customers are located in the top two density zones (over 5,000 lines per square mile), less than three percent of Roseville's customers are in these zones. This is very significant, since these are the density zones where costs are the lowest. It also should be noted that almost half of

Roseville's customers are in the 850-2550 lines per square mile density zone, a density pattern that might well be observed in a rural town.

In sum,.the line density statistics provided by MCI says little about how the customers are clustered within a service area. Yet, it is the clustering pattern that is determinative of costs. And, as shown in the chart above, there is a significant difference between the clustering patterns for Roseville, and the clearly non-rural company Pacific Bell.

IV. Conclusion

The distinction between "rural" and "non-rural" companies set forth in the *Tenth R & O* improperly places smaller mid-sized carriers in the same category as LECs hundreds of times their size, thus basing high-cost support for such companies on models and transition mechanisms designed for carriers with significantly different cost structures and current support resources. Since companies like Roseville receives 65% of its high costs from the USF, a three year phase-out of Hold Harmless support could impact its customers with rate increases of almost $2 per line per month, in each of the next three years. In light of the harm likely to be caused as a result, and because the distinction used by the Commission is not mandated by the Act for use in connection with federal universal service, Roseville urges the Commission to revise that distinction in a manner that treats the smaller mid-sized carriers in a manner more similar to the rural LECs. Such a revision should distinguish LECs subject to the new high-cost support mechanism as those with more than 200,000 access lines in a study area, as provided in the current rules for USF.

Respectfully submitted,

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February 22, 2000

CERTIFICATE OF SERVICE

I, Stacy R. Eveslage, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that true copies of the foregoing Reply to Opposition to and Comments on Petition for Reconsideration of Roseville Telephone Company was served this 22nd day of February, 2000, upon:

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Stacy R. Eveslage

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Forward Looking Mechanism for High Cost Support for Non-Rural LECs	)	CC Docket No. 97-160

ERRATUM TO REPLY TO OPPOSITION
OF ROSEVILLE TELEPHONE COMPANY

Roseville Telephone Company ("Roseville"), by its attorneys, hereby files this Erratum to the Reply to Opposition it filed in the above-captioned proceedings on February 22, 2000. On page 4 of that document, a chart describes the Non-Rural Study Areas under 200,000 access lines receiving hold harmless support. One column of that chart lists the amount of hold harmless support (dollars per-line per-month) for individual carriers. The amount listed for Roseville is "$5.70". That figure is erroneous. The correct amount is $4.51.

Respectfully submitted,

ROSEVILLE TELEPHONE COMPANY

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March 22, 2000

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
	)	
Forward Looking Mechanism for High Cost Support for Non-Rural LECs	)	CC Docket No. 97-160
	)	
	)	

SUPPLEMENTAL ERRATUM TO REPLY TO OPPOSITION
OF ROSEVILLE TELEPHONE COMPANY

Roseville Telephone Company ("Roseville"), by its attorneys, hereby files this Supplemental Erratum to the Reply to Opposition it filed in the above-captioned proceedings on February 22, 2000. On page 4 of that document, a chart describes the Non-Rural Study Areas under 200,000 access lines receiving hold harmless support. That chart contains some erroneous figures, and the chart attached hereto corrects and replaces that information.[1]

Respectfully submitted,

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March 31, 2000

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[1] In a previous Erratum filed on March 22, 2000, Roseville corrected only the figure in that chart which lists the amount of hold harmless support (dollars per-line per-month) for Roseville. This Supplemental Erratum corrects the hold harmless figures for all of the carriers listed therein.

Non-Rural Study Areas < 200K Lines Receiving HH Support

	USF Loops	Hold Harmless Support Annual	Hold Harmless Support $/Line/Mo
Contel Of North Carolina dba GTE NC	128,838	$2,324,124	$1.50
Gte North Inc - Missouri	118,118	$428,604	$0.30
North State Tel Co-Nc	126,149	$2,414,388	$1.59
P R T C - Central	157,150	$35,831,868	$19.00
Roseville Telephone Company	117,860	$6,372,420	$4.51

Source: NECA 1Q2000 High-Cost Funding Report App 1 (annualized)

CERTIFICATE OF SERVICE

I, Joan P. George, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that a true copy of the foregoing *Petition for Unlimited Waiver* was sent this 13th of November, 2000, by hand to the following:

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